

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CODY FOSTER & AMP; CO., INC., a  
Nebraska corporation;

Plaintiff,

vs.

URBAN OUTFITTERS, INC., a  
Pennsylvania Corporation;  
ANTHROPOLOGIE, INC., a Pennsylvania  
Corporation; and URBN UK LIMITED, a  
United Kingdom Corporation;

Defendants.

**8:14CV80**

**MEMORANDUM AND ORDER**

This matter is before the court on Defendants' motion to compel the depositions of artists Lisa Congdon and Cassandra Smith (Filing No. 89). Upon consideration of the parties' oral arguments and respective briefs the court finds the motion should be denied.

"A request for discovery should be considered relevant if there is any possibility that the information sought may be relevant to the subject matter of the action". [Gladfelter v. Wal-Mart Stores, Inc., 162 F.R.D. 589, 590 \(D. Neb. 1995\)](#). However, the scope of discovery is not unlimited. Some threshold showing of relevance must be made before parties are required to produce a variety of information which does not "reasonably bear upon the issues in the case." [Hofer v. Mack Trucks, Inc., 981 F.2d 377, 380 \(8th Cir. 1992\)](#).

The artists in question apparently brought copyright claims against Cody Foster alleging it infringed on the copyright of certain ornament designs. Defendants seek to depose the artists with respect to those claims.

Based on the information currently before the court, I find the artists cannot provide relevant information regarding the motivation for Defendants' cancelling its

contracts with Plaintiff, nor is the information relevant to any claim for damages. Accordingly, the depositions should not go forward and the motion to compel the depositions is denied.<sup>1</sup>

Dated this 11th day of May, 2015

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge

---

<sup>1</sup> The court will rule separately on Defendants' request to compel the production of certain documents, also included in Filing No. 89.

\*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.